IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

WP(C).No. 30441 of 2005(Y)

PETITIONER:

BERNARD PAIVA, H.NO.VII/109,
AZHIKKAKATH HOUSE, KATHIKUDAM, KORATTY-680 308.

BY ADV. SRI.P.NARAYANAN KUTTY
SRI.KRISHNA PRASAD. S

RESPONDENTS:

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1. THE EXECUTIVE ENGINEER,
CHALAKKUDY SUB DIVISION,
KERALA STATE ELECTRICITY BOARD, CHALAKKUDY.

2. THE DEPUTY CHIEF ENGINEER,
ELECTRICAL CIRCLE, KERALA STATE ELECTRICITY
BOARD, IRINJALAKKUDA,
THRISSUR-680 125.

3. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY,
VAIDYUTHI BHAVAN,
THIRUVANANTHAPURAM.

BY ADV. SRI.P.P.THAJUDEEN, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF MAHASSAR PREPARED BY SUB ENGINEER, ELECTRICAL SECTION KORATTY DT.17.9.2003.

P2: TRUE COPY OF DEMAND NOTICE ISSUED BY THE ASST. ENGINEER, ELECTRICAL SECTION, KORATTY DT.18.9.2003.

P3: TRUE COPY OF BILL ISSUED TO PETITIONER DT.18.9.2003.

P4: TRUEC OPY OF RECEIPT OF MONEY ISSUED TO PETITIONER DT.29.0.2003.

P5: TRUE COPY OF COMPLAINT PREFERRED BY PETITIONER BEFORE THE ASST. EXECUTIVE ENGINEER DT.25.10.2003.

P6: TRUE COPY OF ORDER DT.4.11.2003 PASSED BY ASST. EXECUTIVE ENGINEER ELECTRICAL SECTION, CHALAKKUDY.

P7: TRUE COPY OF APPEAL PREFERRED BY PETITIONER DT.28.11.2003 BEFORE R1.

P8: TRUE COPY OF INTIMATION LETTER DT.26.6.2004 RECEIVED FROM R1.

P9: TRUE COPY OF LETTER DT.15.9.2004 SENT BY PETITIONER.

P10: TRUE COPY OF ORDER DT.26.3.2005 PASSED BY R1.

P11: RUE COPY OF ORDER DT.1.7.2005 PASSED BY R2.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.30441 of 2005

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Dated this the 6th day of August, 2007.

JUDGMENT

Heard counsel for the petitioner and Standing Counsel for KSEB. The petitioner is challenging penalty levied for tampering of meter and unauthorised use of energy at three times average consumption for six months. However, in view of Section 126 of the Electricity Act 2003, this court held in KSEB V. NAJEEB 2005(1) KLT 406 that penalty in such cases should be limited to three months, that too, at one and a half times. This W.P. is therefore disposed of directing the first respondent to revise the penal charges by limiting it to three months period, that too, at the rate of one and a half times. Excess paid will be refunded to the petitioner within a period of one month from the date of production of copy of this judgment. If any demand is raised in between, the same can be adjusted.

C.N.RAMACHANDRAN NAIR
Judge

pms